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7.	BEFORE THE		
8	BOARD OF REGISTERED NURSING		
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
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11	In the Matter of the Accusation Against: Case No. 2011 - 503		
12	Children in the control of the contr	·	
13	1759 Rambouillet Road Paso Robles, CA 93446		
14	Registered Nurse License Number 289414		
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16	Respondent.	-	
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18	Complainant alleges:		
19	PARTIES	·	
20	1. Louise R. Bailey, M.Ed., R.N. (Complainant) brings this Accusation solely in her		
21	official capacity as the Interim Executive Officer of the Board of Registered Nursing.		
22	2. On or about March 31, 1978, the Board of Registered Nursing issued Registered		
23	Nurse License Number 289414 to Carol Margaret Kennan, aka Carol Margaret Single, aka Carol		
24	Margaret Perino, aka Carol Margaret Oliver (Respondent). The Registered Nurse License was in		
25	full force and effect at all times relevant to the charges brought herein and will expire on		
26	November 30, 2011, unless renewed.] 	
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Accusation

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This Accusation is brought before the Board, under the authority of the following
 All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

- 4. Section 490 of the Code provides, in pertinent part, that "[a] board may suspend or revoke a license on the ground that the licensee has been convicted of a crime if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere:"
 - 5. Section 493 of the Code states:

"Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to ... suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred ... and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question."

- 6. Section 2750 of the Code states:
- "Every certificate holder or licensee ... may be disciplined as provided in this article."
- 7. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse ... for any of the following:

- (a) Unprofessional conduct, which includes, but is not limited to, the following:
- (d) Violating ... any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it."
 - 8. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

- (b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.
- (c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section ... in which event the record of the conviction is conclusive evidence thereof.

FIRST CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crime)

- 9. Respondent is subject to disciplinary action under sections 490 in that Respondent has been convicted of crimes substantially related to the qualifications, functions or duties of a registered nurse, as follows:
- a. On or about August 22, 2006, Respondent was convicted after pleading nolo contendere, to one misdemeanor count of Veh. Code section 23152, subdivision (b) [driving while having .08% blood alcohol content or higher] and admitting to a misdemeanor violation of Veh. Code section 23578 [a concentration of alcohol in the person's blood of 0.15% or more, by weight] in a criminal proceeding entitled *The People of the State of California v. Carol Margaret Kennan* (San Luis Obispo County Super. Ct., 2006, No. M389376). The Respondent was sentenced to 3 years of probation and 4 days of jail. The Respondent was also ordered to complete a 9-month DUI First Offender's program and pay \$1609.00 in fines and fees.
- b. The underlying factual circumstances occurred on or around May 29, 2006 at approximately 11:17 p.m. when an officer from the Paso Robles Police Department was dispatched concerning a possible DUI driver driving a grey-colored Pontiac Grand Am in the

proximate area. Shortly thereafter, the officer noticed a vehicle matching the description drive past. The officer made a U-turn and followed the vehicle. Upon initiating a traffic stop, the officer observed the driver swerve side to side within its lane. The driver identified herself as Carol Margaret Kennan, Respondent.

- c. Upon making contact with the Respondent, the officer "smelled a distinct odor of an alcoholic beverage on her breath and person." When asked how much alcohol she consumed, Respondent admitted, "2-3 margaritas." Shortly thereafter, the officer administered the standard Field Coordination Test, which the Respondent was unable to perform as it was explained to her and as demonstrated by the officer. The Respondent demonstrated an impairment of her balance, coordination and thought process. Based upon her objective symptoms of intoxication, she was placed under arrest.
- d. At or around 12:25 a.m., the Respondent was taken to a community hospital where she provided a blood sample for testing. The blood sample indicated a blood alcohol concentration of .22% and was placed in evidence pursuant to the arrest.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

10. Respondent is subject to disciplinary action under section 2761, subdivisions (a) in that on or around August 22, 2006, Respondent conducted herself in an unprofessional manner relating to the use and consumption of dangerous drugs, namely alcohol. Complainant refers to the allegations in paragraph 9 and all subparagraphs in their entirety as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(Alcohol Abuse)

11. Respondent is subject to disciplinary action under section 2762, subdivisions (b) and (c) as a result of Respondent's dangerous use of alcohol. Complainant refers to the allegations in paragraph 9 and all subparagraphs in their entirety as if fully set forth herein.

PRAYER 1 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, 2 3 and that following the hearing, Board issue a decision: 1. Revoking or suspending Registered Nurse License Number 289414, issued to Carol 4 Margaret Kennan, aka Carol Margaret Single, aka Carol Margaret Perino, aka Carol Margaret 5 Oliver. 6 2. Ordering Carol Margaret Kennan to pay the Board the reasonable costs of the 7 investigation and enforcement of this case, pursuant to Business and Professions Code section 8 9 125.3; 3. Taking such other and further action as deemed necessary and proper. 10 11 12 13 DATED: 14 Interim Executive Officer 15 Board of Registered Nursing State of California 16 Complainant 17 LA2010501553 18 Carol Kennan Acc.docx 19 20 21 22 23 24 25 26

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